

UNITED STATES DISTRICT  
COURT WESTERN DISTRICT OF  
NEW YORK



Gregory Johnson

Plaintiff,

Case No. 1:21-CV-01049-WMS-HKS

vs.

Portfolio Recovery Associates, LLC

Defendant.

MOTION TO STAY  
PROCEEDINGS PENDING  
RULING ON PLAINTIFF'S  
MOTION TO REMAND

The above captioned plaintiff, Gregory Johnson, by and through pro se appearance, hereby moves this Honorable Court, to stay all further proceedings pending ruling on plaintiffs Motion to Remand to State Court. Plaintiff respectfully asks this Court to stay the deadline for the Case Management scheduling order, put in place by the Honorable Kenneth H Schroeder, Jr. on October 4, 2021, pending the Court's determination on the plaintiff's Motion to Remand to the New York State Supreme Court of Erie County.

Plaintiff filed its action in the New York State Supreme Court of Erie County (Case no. 811696/2021) on August 24th, 2021, seeking damages from defendant Portfolio Recovery Associates, LLC suffered by the plaintiff for breach of contract and the defendant defaulting during a private administration process commenced by the Plaintiff to mitigate damages. On September 24, 2021, the defendant Portfolio Recovery Associates, LLC filed its Notice of Removal to the Court pursuant to 28 U.S.C. §1446. The removal was based on subject matter

jurisdiction pursuant to 28 U.S.C. § 1331. On October 5th, 2021, Plaintiff filed its Motion to Remand to New York State Supreme Court of Erie County. On October 12th, 2021, Plaintiff filed demand for jury trial. The defendant filed an amended answer on October 15th, 2021, and a response to the Plaintiff's Motion to Remand on October 20th, 2021. Defendant Portfolio Recovery Associates, LLC submitted a proposed discovery plan on November 4th, 2021, as well as the Plaintiff submitting the same on November 5<sup>th</sup>, 2021, after following Judge Schroeder Jr.'s order to confer and produce a Case Management plan pursuant to rule 26(f).

A stay seems appropriate “if resolution of a preliminary motion may dispose of the entire action” *Nankivil v. Lockheed Martin Corp.*, 216 F.R.D. 689, 692(MD. Fla.. 2003). See also, *Patterson vs United States Postal Service*, 901 F. 2d 927(11<sup>th</sup> Cir 1990).

WHEREFORE, Plaintiff Gregory Johnson respectfully requests that this Court stay all currently pending deadlines for the parties including the Case Management scheduling plan that was submitted by the parties on November 4th, 2021, and November 5th, 2021, pending the Court's determination on whether this matter should be remanded to the New York State Supreme Court of Erie County. If the Court finds that the matter should be remanded, the deadlines for the Case Management scheduling plan will be able to be resolved in the State Court. If the Court finds that the matter should not be remanded, plaintiff request it be granted a one(1) week extension of time from the date that this Court issues its ruling to propose a new Case Management scheduling plan.

Respectfully Submitted on this 8<sup>th</sup> day November 2021

By: \_\_\_\_\_

Gregory Johnson  
Pro Se Litigant  
P.O. Box 1163  
Buffalo, Ny 14225  
716-536-7733  
Ghenghs23@gmail.com

**CERTIFICATE OF SERVICE**

I, Gregory Johnson, hereby certify that on November 8, 2021, I manually filed the foregoing document with the United States District Court Western District of New York, Clerk of the Court, at 2 Niagara Square Buffalo, NY 14202, and sent all attachments filed with the Court, via USPS Certified mail, by causing it to be deposited in a properly addressed wrapper with postage prepaid, and deposited under the exclusive care and custody of the United States Postal Service within the State of New York, upon the following person(s):

Stephen J. Steinlight  
Troutman Pepper Hamilton Sanders LLP  
875 Third Avenue  
New York, NY 10022

*Margy Johnson*

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Pro Se Litigant